

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MALCTORZATA TROCKA,

Plaintiff,

vs.

NICOLE D. ELI, A MEMBER OF
THE NEW YORK STATE POLICE,

Defendant.
-----X

COMPLAINT

07 CIV. 3718
SUBMISSION

FILED
U.S. DISTRICT COURT
2007 MAY 10 P 2:22
S.D. OF N.Y. W.P.

This is an action to vindicate the civil rights of a public school teacher who was struck without cause by a member of the New York State police.

1. Plaintiff, MALCTORZATA Trocka [hereinafter "Trocka"] is a resident of the State of New York, County of Orange and is of legal age.

2. Defendant, Nicole D. Eli [hereinafter "Eli"], is a member of the New York State police who, at all relevant times, was assigned to work at the Minisink public schools within this judicial district. Plaintiff sues defendant in her individual capacity for acts committed under color of state law.

3. As plaintiff alleges that defendant used excessive force against her without basis thereby violating her rights as protected by the Fourth and Fourteenth Amendments, this Court has jurisdiction pursuant to 42 U.S.C. secs 1983 and 1988 and 28 U.S.C. secs. 1331 and 1343 (3) & (4).

4. On September 13, 2006, at Minisink High School, to which she was then assigned, without sufficient cause or provocation, defendant, Eli, grabbed plaintiff by her coat and pushed

her into her car.

5. Due to the force applied by defendant Eli, plaintiff's back hit the steering wheel of her car, causing her pain and discomfort.

6. After defendant pushed plaintiff into her car as described above, defendant Eli continued shaking plaintiff without cause or basis.

7. Defendant's use of physical force against the plaintiff was unauthorized and unnecessary to protect either the defendant, the public health and welfare of any other person or to promote or advance any other public interest.

8. Nor were defendant's actions necessary or ancillary to the making of a lawful arrest.

9. Defendant's unjustified use of force caused plaintiff physical injury, including bruising, pain and discomfort.

10. Defendant's unjustified use of force caused plaintiff to experience ongoing sleeplessness, emotional distress and mental anguish.

11. Defendant's actions were committed under color of state law.

12. Defendant's actions were plainly proscribed as illegal and contrary to law long before she acted as set forth above and defendant does not enjoy qualified immunity for this conduct.

13. By pushing and shaking plaintiff as set forth above, defendant violated the Fourteenth [due process] and Fourth Amendments to the United States Constitution as made actionable to her by 42 U.S.C. sec. 1983.

WHEREFORE, plaintiff prays that this Honorable Court:


- a) accept jurisdiction over this matter;
- b) empanel a jury to fairly hear and decide the matter;

c) award to plaintiff and against defendant \$50,000 in compensatory damages and \$75,000 in punitive damages;

d) award to plaintiff the reasonable attorney fees deriving from this action and

e) enter any other award which the interests of justice and equity require.

Respectfully submitted,


MICHAEL H. SUSSMAN [3497]

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Dated: May 7, 2007